



**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ORANGEBURG DIVISION**

PHILLIP MICHAEL BUTLER
and CHARLES GENE BUTLER,
Plaintiffs,

vs.

JUDGE DERRICK F. DASH,
Defendant.

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Civil Action No. 5:24-3188-MGL

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
AND SUMMARILY DISMISSING THIS CASE WITHOUT PREJUDICE**

Plaintiff Phillip Mitchell Butler (Phillip), who is representing himself, filed this action against Defendant Judge Derrick F. Dash, alleging violations of his civil rights. Although Phillip listed Plaintiff Charles Gene Butler (Charles) as a party in the caption of the complaint, Charles failed to sign the complaint or otherwise appear. Further, Phillip listed only himself as a plaintiff in his application to proceed *in forma pauperis*. The Court will, therefore, treat Phillip as the only plaintiff in this action.

This matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge recommending the Court summarily dismiss this case for Phillip's failure to comply with a Court order and failure to prosecute. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo

determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on October 31, 2024. To date, Phillip has failed to file any objections.

“[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845–46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case under the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of the Court this case is summarily **DISMISSED WITHOUT PREJUDICE**.

IT IS SO ORDERED.

Signed this 21st day of November 2024, in Columbia, South Carolina.

s/ Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

Phillip is hereby notified of his right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.